

1 THE HONORABLE MARSHA J. PECHMAN  
2  
3  
4  
5

6 UNITED STATES DISTRICT COURT  
7 WESTERN DISTRICT OF WASHINGTON

8 MARK HOFFMAN, on behalf of himself and all  
9 others similarly situated,

10 Plaintiff,

11 vs.

12 HEARING HELP EXPRESS, INC.,  
13 TRIANGULAR MEDIA CORP.,  
14 LEADCREATIONS.COM, LLC, LEWIS  
15 LURIE, INTRICON, INC., and INTRICON  
16 CORPORATION,

Defendants.

Case No. 3:19-cv-05960-MJP

**STIPULATED MOTION AND  
ORDER TO EXTEND DEADLINE  
TO SUBMIT CLAIMS, OBJECT, OR  
REQUEST EXCLUSION**

**NOTED FOR CONSIDERATION:  
NOVEMBER 5, 2021**

17  
18 Plaintiff Mark Hoffman, and Defendants Hearing Help Express, Inc., Intricon, Inc., and  
19 Intricon Corp. (collectively, “Parties”), jointly move this Court for entry of an order granting a  
20 short extension of deadlines for settlement class members to submit claims, object, or request  
21 exclusion. The requested extension will not change the briefing schedule for the motion for final  
22 approval, or the date of the fairness hearing. In support, the Parties state as follows:

23 1. On August 4, 2021, the Court preliminarily approved the Parties’ class action  
24 Settlement Agreement, including the notice documents, claim form, and exclusion form attached  
25 to the Settlement Agreement as Exhibits 2-6 (“Order”). ECF No. 139.

26  
27 STIPULATED MOTION AND ORDER TO EXTEND  
DEADLINE TO SUBMIT CLAIMS, OBJECT, OR REQUEST  
EXCLUSION - 1

Case No. 3:19-cv-05960-MJP

TERRELL MARSHALL LAW GROUP PLLC  
936 North 34th Street, Suite 300  
Seattle, Washington 98103-8869  
TEL. 206.816.6603 • FAX 206.319.5450  
www.terrellmarshall.com

1       2.     The Court also approved AB Data as the Settlement Administrator. As explained  
 2 in Steven J. Straub's Declaration, filed with this stipulated motion, on September 3, 2021, AB  
 3 Data provided notice to settlement class members pursuant to the Court's Order.

4       3.     On October 13, 2021, A.B. Data advised the Parties that relatively few claims had  
 5 been submitted. Due to longer physical mail delivery times related to the ongoing pandemic and  
 6 the USPS implementation of new service standards, A.B. Data coordinated with the Parties to  
 7 provide additional notice to settlement class members. Based on additional research, from  
 8 October 18 to 29, 2021, A.B. Data mailed postcards and emailed notice to nearly 20,000 new  
 9 mailing or email addresses for settlement class members. A.B. Data also re-sent notice to  
 10 physical and email addresses that had not bounced back or filed claims. These were reasonable  
 11 procedures which are not materially inconsistent with either the Court's Order or the terms of the  
 12 Settlement Agreement and that advanced the likelihood that claims would be increased.

13      4.     November 2, 2021 was the deadline to submit claims, object, or request exclusion.  
 14 To date, A.B. Data has received only 220 claims. Of these, A.B. Data has determined that 158  
 15 are valid. A.B. Data expects to receive additional timely claims by mail in the coming weeks.  
 16 However, A.B. Data also recommends extending the claim, objection, and exclusion period to  
 17 December 6, 2021 to allow for additional timely claims. In addition, A.B. Data recommends that  
 18 postcards and emails reflecting a revised deadline of December 6, 2021 be sent to settlement  
 19 class members who have not yet submitted claims.

20      5.     Pursuant to the Court's Order, the Parties may "modify the Settlement  
 21 Agreement prior to the Final Approval Hearing so long as such modifications do not materially  
 22 change the terms of the settlement provided therein." ECF No. 139, ¶ 18. The Parties jointly  
 23 request permission to modify the Settlement Agreement's definition of "Response Deadline,"  
 24 which will extend the deadline from November 2, 2021 to December 6, 2021.

25

26

27

**STIPULATED MOTION AND ORDER TO EXTEND  
 DEADLINE TO SUBMIT CLAIMS, OBJECT, OR REQUEST  
 EXCLUSION - 2**

Case No. 3:19-cv-05960-MJP

1 **from:**

2 1.30 Response Deadline. The date by which a Settlement Class Member must  
3 submit a Claim Form, object to this Agreement, or submit a request for exclusion  
4 to the Settlement Administrator. The Response Deadline shall be ninety (90) days  
5 after entry of the Preliminary Approval Order.

6 **to:**

7 1.30 Response Deadline. The date by which a Settlement Class Member must  
8 submit a Claim Form, object to this Agreement, or submit a request for exclusion  
9 to the Settlement Administrator. The Response Deadline shall be one hundred  
10 twenty-five (125) days after entry of the Preliminary Approval Order.

11 See ECF No. 137-1, ¶ 1.30.

12 6. The Parties also jointly request permission to revise and resend notice documents  
13 to reflect the extended December 6, 2021 deadline to submit claims, object, or request exclusion.  
14 In addition, the Parties will direct A.B. Data to update the settlement website and toll-free  
15 number to provide information about the extended deadline.

16 7. Good cause exists to grant this request for a limited extension of the deadline to  
17 submit claims, object, or request exclusion, as the extension will maximize efforts to reach a  
18 significant portion of settlement class members and encourage their participation.

19 8. Moreover, the Parties' request will not affect the existing December 22, 2021  
20 deadline for Plaintiff to file the motion for final approval, or the fairness hearing, which is  
21 scheduled for January 5, 2022.

22 9. For all these reasons the parties respectfully request the Court enter an order  
23 extending the deadline to submit claims, object, or request exclusion to December 6, 2021 and  
24 authorizing A.B. Data to re-send mail and email notice with the extended deadline to settlement  
25 class members who have not submitted claims.

26  
27 STIPULATED MOTION AND ORDER TO EXTEND  
DEADLINE TO SUBMIT CLAIMS, OBJECT, OR REQUEST  
EXCLUSION - 3

Case No. 3:19-cv-05960-MJP

TERRELL MARSHALL LAW GROUP PLLC  
936 North 34th Street, Suite 300  
Seattle, Washington 98103-8869  
TEL. 206.816.6603 • FAX 206.319.5450  
www.terrellmarshall.com

1 STIPULATED TO AND DATED this 5th day of November, 2021.  
2  
3

4 TERRELL MARSHALL LAW GROUP PLLC BLANK ROME LLP  
5

6 By: /s/ Adrienne D. McEntee, WSBA #34061  
7 Beth E. Terrell, WSBA #26759  
8 Email: bterrell@terrellmarshall.com  
9 Jennifer Rust Murray, WSBA #36983  
10 Email: jmurray@terrellmarshall.com  
11 Adrienne D. McEntee, WSBA # 34061  
12 Email: amcentee@terrellmarshall.com  
13 Benjamin M. Drachler, WSBA #51021  
14 Email: bdrachler@terrellmarshall.com  
15 936 North 34th Street, Suite 300  
16 Seattle, Washington 98103-8869  
17 Telephone: (206) 816-6603  
18 Facsimile: (206) 319-5450

19 By: /s/ Ana Tagvoryan, pro hac vice  
20 Ana Tagvoryan (admitted pro hac vice)  
21 atagvoryan@BlankRome.com  
22 Jeffrey Rosenthal (admitted pro hac vice)  
23 Rosenthal-J@BlankRome.com  
24 Nicole B. Metral (admitted pro hac vice)  
25 nbmetral@blankrome.com  
26 2029 Century Park East, 6th Floor  
27 Los Angeles, CA 90067  
Telephone: 424.239.3400  
Facsimile: 424.239.3434

*Attorneys for Defendants Hearing Help  
Express, Intricon, Inc., and Inticon, Corp.*

12 Anthony I. Paronich, *Admitted Pro Hac Vice*  
13 Email: anthony@paronichlaw.com  
14 PARONICH LAW, P.C.  
15 350 Lincoln Street, Suite 2400  
16 Hingham, Massachusetts 02043  
17 Telephone: (617) 485-0018  
18 Facsimile: (508) 318-8100

19 *Attorneys for Plaintiff and the Settlement Class*  
20  
21  
22  
23  
24  
25  
26  
27

STIPULATED MOTION AND ORDER TO EXTEND  
DEADLINE TO SUBMIT CLAIMS, OBJECT, OR REQUEST  
EXCLUSION - 4

Case No. 3:19-cv-05960-MJP

TERRELL MARSHALL LAW GROUP PLLC  
936 North 34th Street, Suite 300  
Seattle, Washington 98103-8869  
TEL. 206.816.6603 • FAX 206.319.5450  
www.terrellmarshall.com

## II. ORDER

2 Pursuant to the parties Stipulated Motion, the Court hereby grants the Parties' request to  
3 modify the Settlement Agreement, extends the deadline to submit claims, object, or request  
4 exclusion to December 6, 2021, and authorizes A.B. Data to re-send mail and email notice with  
5 the December 6, 2021 deadline to settlement class members who have not submitted claims.

IT IS SO ORDERED.

DATED this 12th day of November, 2021.

Wassup. Releman

Marsha J. Pechman  
United States Senior District Judge

STIPULATED MOTION AND ORDER TO EXTEND  
DEADLINE TO SUBMIT CLAIMS, OBJECT, OR REQUEST  
EXCLUSION - 5

Case No. 3:19-cv-05960-MJP

**TERRELL MARSHALL LAW GROUP PLLC**  
936 North 34th Street, Suite 300  
Seattle, Washington 98103-8869  
TEL. 206.816.6603 • FAX 206.319.5450  
[www.terrellmarshall.com](http://www.terrellmarshall.com)